

REMARKS

These amendment and remarks are being filed in response to the Office Action dated February 13, 2006. For the following reasons this application should be allowed and the case passed to issue.

No new matter is introduced by this amendment. The amendment to Claim 22 merely clarifies the claim.

Claims 14-16 and 18-28 are pending in this application. Claims 14-16 and 18-22 have been rejected. Claims 23-28 are allowed. Claims 1-13 and 17 were previously canceled.

Allowable Subject Matter

Claims 23-28 are allowed.

Applicants gratefully acknowledge the indication of allowed claims.

Claim Rejections Under 35 U.S.C. § 112

Claims 19-22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner asserted that it was not clear what is meant by "biasing the hinge latch from the locked position to the unlocked position adjusts the locking hinge from the first configuration to the second configuration" in claim 19. The Examiner further maintained that it is unclear what is meant by "upon the lower ladder section being folded relative to the upper ladder section, the biasing member allowed to bias the hinge latch towards the locked position" in claim 22. These rejections are traversed, and reconsideration and withdrawal thereof respectfully requested.

Biasing the hinge latch from the locked position to the unlocked position adjusts the locking hinge from the first configuration to the second configuration is fully described in the specification at page 18, line 7 to page 19, line 13 and Figs. 13(a), 13(b), 14(a), and 14(b). Figures 13(a) and 13(b) depict the locked position, while Figs. 14(a) and 14(b) illustrate the

unlocked position. In view of these portions of the written description, it is clear that as the hinge latch 460 is biased from the locked position to the unlocked position, the locking hinge is adjusted from the first configuration to the second configuration. As required by independent claim 14, in the first configuration the locking hinge prevents the lower ladder section from folding relative to the upper ladder section, while in the second configuration, the locking hinge allows the lower ladder section to fold relative to the upper ladder section.

Claim 22 recites a structural limitation. As explained in the specification at page 20, lines 8-17, as the lower ladder section is folded relative to the upper ladder section, the biasing member biases the hinge latch towards the locked position. Therefore, the claimed ladder has a structure such that the biasing member biases the hinge latch toward the locked position when the lower ladder section is folded relative to the upper ladder section.

Applicants submit that the claims fully comport with the requirements of 35 U.S.C. § 112.

Claim Rejections Under 35 U. S. C. § 103

Claims 14, 15, and 18-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wenger in view of Donahey (U.S. Pat. No. 5,165,501). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested. The following is a comparison between the invention as claimed and the cited prior art.

An aspect of the invention, per claim 14, is a foldable ladder configured for installation in an opening to provide access between one floor or space and another floor or space, comprising an upper ladder section having at least one rail and a lower ladder section having at least one rail. A locking hinge connects the rail of the upper ladder section to the rail of the lower ladder section and is configured to allow the lower ladder section to fold relative to the upper ladder

section. A second hinge is connected to the upper ladder section and is configured to fixedly attach to a member associated with the opening. When the upper ladder section and the lower ladder section are fully unfolded the locking hinge is adjustable between at least two configurations. In a first configuration, the locking hinge completely prevents the lower ladder section from folding relative to the upper ladder section. In a second configuration, the locking hinge allows the lower ladder section to fold relative to the upper ladder section.

The Examiner acknowledged that Wenger does not disclose a second hinge connected to the upper ladder section to fixedly attach to a member associated with the opening. The Examiner asserted that Donahey teaches this concept as additional means for supporting the ladder. The Examiner averred that it would have been obvious to include Donahey's means for supporting the ladder in the design of Wenger for the purpose of providing additional means for supporting the ladder.

Wenger and Donahey, whether taken alone, or in combination, do not suggest the claimed foldable ladder. Neither Wenger nor Donahey suggest the second hinge configured to **fixedly attach** to a member associated with the opening, as required by claim 14. The support plate assembly 120 of Donahey is not configured to **fixedly attach** to a member associated with the opening as required by claim 14. The support plate assembly 120 of Donahey *merely rests on a roof or against a wall*. Donahey does not suggest modifying the support plate assembly or any part of the second hinge so that it is **configured to fixedly attach** to a member associated with the opening. If the Examiner maintains this rejection, Applicants respectfully request that the Examiner point out where Donahey discloses the second hinge **configured to fixedly attach** to a member associated with the opening.

Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wenger in view of Donahey and further in view of Gould et al. (U.S. Pat. No. 4,823,912). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested.

The Examiner acknowledged that Wenger does not disclose the claimed bracket member. The Examiner asserted that it would have been obvious to modify the ladder of Wenger to include the bracket of Gould et al. to provide additional securing means.

Wenger, Donahey, and Gould et al., whether taken alone or in combination, do not suggest the claimed foldable ladder because Gould et al. do not cure the deficiencies of Wenger and Donahey. Gould et al. do not suggest the claimed foldable ladder including a second hinge connected to the upper ladder section, the second hinge configured to **fixedly attach** to a member associated with the opening as required by claim 14. Thus, claim 16 is allowable for at least the same reasons as claim 14.

The dependent claims are allowable for at least the same reasons as their respective independent claims and further distinguish the claimed invention.

Response to Arguments

Neither Wenger nor Donahey suggest the second hinge configured to **fixedly attach** to a member associated with the opening, as required by claim 14. The support plate assembly 120 of Donahey is **not configured to fixedly attach** to a member associated with the opening as required by claim 14. The support plate assembly 120 of Donahey merely *rests on a roof or against a wall*. Donahey does not suggest modifying the support plate assembly or any part of the second hinge so that it is **configured to fixedly attach** to a member associated with the opening.

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In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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